



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

खण्ड १६] शिमला, शनिवार, २२ जून, १९६८/१ आषाढ़, १८६० [संख्या २५

| विषय-सूची | | |
|-----------|--|---------|
| भाग १ | वैधानिक नियमों को छोड़ कर हिमाचल प्रदेश के उप-राज्यपाल और हिमाचल बेंच आफ़ देहली हाई कोर्ट द्वारा अधिसूचनाएं इत्यादि | २४७—२५० |
| भाग २ | वैधानिक नियमों को छोड़ कर विभिन्न विभागों के अध्यापकों और जिला मैजिस्ट्रेटों द्वारा अधिसूचनाएं इत्यादि | — |
| भाग ३ | अधिनियम, विधेयक और विधेयकों पर प्रवर समिति के प्रतिवेदन, वैधानिक नियम तथा हिमाचल प्रदेश के उप-राज्यपाल, हिमाचल बेंच आफ़ देहली हाई कोर्ट, फ़ाइनेन्शियल कमिशनर तथा कमिशनर आफ़ इन्कम-टैक्स द्वारा अधिनूचित आदेश इत्यादि | — |
| भाग ४ | स्थानीय स्वायत्त शासन: म्युनिसिपल बोर्ड, डिस्ट्रिक्ट बोर्ड, नोटिफ़ाइड और टाउन एरिया तथा ग्रामपंचायत विभाग | — |
| भाग ५ | वैयक्तिक अधिसूचनाएं और विज्ञापन | २६१ |
| भाग ६ | भारतीय राजपत्र इत्यादि में से पुनः प्रकाशन | — |
| भाग ७ | भारतीय निर्वाचन आयोग (Election Commission of India) की वैधानिक अधिसूचनाएं तथा अन्य निर्वाचन सम्बन्धी अधिसूचनाएं | २६१—२६७ |
| — | अनुपूरक | — |

२२ जून, १९६८/१ आषाढ़, १८६० को समाप्त होने वाले सप्ताह में निम्नलिखित विज्ञप्तियां 'असाधारण राजपत्र, हिमाचल प्रदेश' में प्रकाशित हुईं :-

| विज्ञप्ति की संख्या | विभाग का नाम | विषय |
|---|---------------------|--|
| No. 14-16/64-Home, dated the 9th June, 1968. | Home Department | Authorising the carrying out of field firing and artillery practices by the Army authorities. |
| No. 6-30/67-LR., dated the 1st May, 1968. | Law Department | Publication of the Himachal Pradesh Urban Movable Property Tax Act, 1968 (Act No. 7 of 1968). |
| No. 6-58/67-Elec., dated the 17th June, 1968. | Election Department | Republication of Election Commission of India's Notification No. 56/68-II, dated the 11th April, 1968. |
| No. 6-58/67-Elec., dated the 17th June, 1968. | -do- | Republication of Election Commission of India's Notification No. 56/68-III, dated the 9th May, 1968. |

भाग १—वैधानिक नियमों को छोड़ कर हिमाचल प्रदेश के उप-राज्यपाल और हिमाचल बेंच आफ़ देहली हाई कोर्ट द्वारा अधिसूचनाएं इत्यादि

हिमाचल प्रदेश सरकार
PUBLIC WORKS DEPARTMENT
NOTIFICATIONS

Simla-1, the 30th May, 1968

No. PW(R)Border-IV/68-6212-15 E.—Whereas it appears to the Lieutenant Governor, Himachal Pradesh,

that the land is required to be taken by the Government at public expense for a public purpose, namely for construction of Approach Road to Chini Bazar, it is hereby declared that the land described in the specification below is required for the above purpose.

2. This declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894, to all whom

it may concern and under the provisions of section 7 of the said Act, the Collector, Land Acquisition, Himachal Pradesh Public Works Department is hereby directed to take order for the acquisition of the said land.

3. A plan of the land may be inspected in the office of the Collector, Land Acquisition, Himachal Pradesh Public Works Department, Kalpa, District Kinnaur.

SPECIFICATION

District: KINNAUR

Tehsil: KALPA

| Village | Khasra No. | Area Big. Bis. | |
|----------|------------|-------------------|----|
| CHINI | 648/1 | 0 | 3 |
| | 677/1 | 0 | 8 |
| | 678/1 | 0 | 1 |
| | 1614/656/1 | 0 | 18 |
| | 651/1 | 0 | 17 |
| | 652/1 | 1 | 7 |
| | 1615/656/1 | 0 | 1 |
| | 670/1 | 0 | 1 |
| | 675/1 | 0 | 6 |
| | 682/1 | 0 | 6 |
| | 662/1 | 0 | 5 |
| | 661/1 | 0 | 3 |
| | 638/1 | 0 | 4 |
| | 619/1 | 0 | 16 |
| | 657/1 | 0 | 5 |
| | 645 | 0 | 3 |
| | 646 | 0 | 1 |
| | 750/1 | 0 | 3 |
| | 644/1 | 0 | 1 |
| | 647 | 1 | 0 |
| | 617/1 | 0 | 3 |
| | 617/2 | 0 | 5 |
| Total .. | | 7 | 17 |

Whereas it appears to the Lieutenant Governor, Himachal Pradesh that land is likely to be required to be taken by the Himachal Pradesh Government at the public expense for a public purpose*, it is hereby notified that land in the locality described below is likely to be acquired for the said *purpose.

2. This Notification is made under the provision of section 4 of the Land Acquisition Act, 1894 to all whom it may concern.

3. In exercise of the powers conferred by the aforesaid section, the Lieutenant Governor, Himachal Pradesh is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

4. Any person interested who has any objection to the acquisition of the said land in the locality may, within thirty days of the publication of this Notification, file an objection in writing before the Collector of Land Acquisition, Himachal Pradesh Public Works Department, Simla (Kasumpti).

Simla-1, the 30th May, 1968

No. PW (R)-123-293/66-I-6204-7-E

*Construction of Sawara-Jakhar-Pujarli-Mandal road

SPECIFICATION

District: MAHASU

Tehsil: JUBBAL

| Village | Khasra No. | Area Big. Bis. | |
|-------------|-------------|-------------------|----|
| DHADI-GUNSA | 496/1 | 0 | 5 |
| | 506/1 | 0 | 8 |
| | 442/1 | 0 | 8 |
| | 853/1 | 0 | 10 |
| | 520/1 | 0 | 1 |
| | 568/1 | 0 | 3 |
| | 852/1 | 0 | 2 |
| | 404/1 | 1 | 13 |
| | 560/1 | 0 | 2 |
| | 566/1 | 0 | 14 |
| | 804/1 | 0 | 5 |
| | 806 | 0 | 6 |
| | 807/1 | 0 | 8 |
| | 812/1 | 0 | 8 |
| | 808 | 0 | 7 |
| | 1273/1 | 1 | 2 |
| | 1275 | 0 | 8 |
| | 1278/1 | 1 | 9 |
| | 403/1 | 0 | 6 |
| | 495/1 | 0 | 9 |
| | 509/1 | 0 | 4 |
| | 1563/854/1 | 0 | 11 |
| | 1541/398/2 | 3 | 13 |
| | 1541/398/2 | 0 | 11 |
| | 434/1 | 0 | 4 |
| | 437/1 | 1 | 19 |
| | 438/1 | 3 | 12 |
| | 1559/440/1 | 1 | 1 |
| | 441/1 | 0 | 2 |
| | 564/1 | 0 | 12 |
| | 598/1 | 0 | 19 |
| | 816/1 | 1 | 0 |
| | 840/1 | 0 | 14 |
| | 819/1 | 1 | 13 |
| | 825/1 | 0 | 11 |
| | 1274/1 | 0 | 6 |
| | 1277/1 | 2 | 14 |
| | 1476/1 | 1 | 11 |
| | 1520/21 | 10 | 14 |
| | 1520/2 | 4 | 12 |
| | 1522/1 | 4 | 18 |
| | 1534/1 | 3 | 9 |
| | 1568/606/1 | 1 | 16 |
| | 868/1 | 0 | 3 |
| | 1536/1 | 1 | 1 |
| | 1539/1 | 0 | 1 |
| | 1566/1519/1 | 0 | 18 |
| | 1562/854/1 | 4 | 9 |
| | 1562/854/2 | 0 | 8 |
| | 507/1 | 0 | 5 |
| | 557/1 | 1 | 4 |
| | 558/1 | 0 | 2 |
| | 858/1 | 0 | 1 |
| | 1828/1 | 1 | 15 |
| | 859/1 | 0 | 16 |
| | 811/1 | 0 | 4 |
| | 583/1 | 1 | 16 |
| | 1277/2 | 0 | 2 |
| Total .. | | 598 | |

No. PW (R)-123-293/66-I-6200-03 E

SPECIFICATION

| Village | Khasra No. | Area Big. Bis. |
|---------|------------|-------------------|
| MANDAL | 5/1 | 0 3 |
| | 7/1 | 0 2 |
| | 8/1 | 0 4 |
| | 9/1 | 0 13 |
| | 16/1 | 0 2 |
| | 38/1 | 0 1 |
| | 17/1 | 0 4 |
| | 37/1 | 0 19 |
| | 20/1 | 0 3 |
| | 27/1 | 0 7 |
| Total | .. | 2 18 |

No. PW (R) 123-293/66-I-6208-11 E

SPECIFICATION

| Village 1 | Khasra No. 2 | Area Big. Bis. 3 4 |
|--------------|-----------------|--------------------------|
| SHILGAON | 1207/1 | 0 4 |
| | 1130/1 | 0 3 |
| | 1208/1 | 0 14 |
| | 44/1 | 0 14 |
| | 48 | 0 16 |
| | 138/1 | 0 3 |
| | 45/1 | 0 18 |
| | 35/1 | 0 2 |
| | 163/1 | 0 3 |
| | 161/1 | 0 4 |
| | 1210/1 | 0 1 |
| | 1141/1 | 0 2 |
| | 1447/1 | 0 5 |
| | 1142/1 | 1 1 |
| | 1211/1 | 1 10 |
| | 1199/1 | 0 11 |
| | 37/1 | 0 1 |
| | 39/1 | 0 11 |
| | 1449/1 | 0 7 |
| | 25/1 min | 0 4 |
| | 25/1 min | 0 4 |
| | 49/1 | 0 1 |
| | 1440/1 | 1 2 |
| | 43/1 | 0 1 |
| | 24/1 | 0 1 |
| | 1127/1 | 0 19 |
| | 1241/1/1 | 0 2 |
| | 16/1 min | 1 12 |
| | 30/1 | 0 4 |
| | 29/1 | 0 8 |
| | 26/1 | 1 1 |
| | 1131/1 | 1 4 |
| | 38/1 | 0 3 |
| | 1445/1 | 0 5 |
| | 23/1 | 1 15 |
| | 177/1 | 0 7 |
| | 757/1 | 0 70 |
| | 133/1 | 1 7 |
| | 1110/1 | 0 1 |
| | 135/1 | 0 6 |

1

2

3

4

164/1

1

1

1111/1

5

7

1241/1

0

12

1323/1

0

1

1324/1

0

1

1126/1

1

16

1203/1

0

1

1457/1

0

2

74/1

2

13

162

0

9

Total

..

32

0

No. PW (R) 123-282/6942-45E, Simla-1, the 31st May, 1968

* Construction of Chhaila-Chopal road

SPECIFICATION

District: MAHASU

Tehsil: THEOG

| Village | Khasra No. | Area Big. Bis. |
|---------|------------|-------------------|
| KATIANA | 1407/141/1 | 0 2 |
| | 1412/147/1 | 0 2 |
| Total | .. | 0 4 |

Whereas it appears to the Lieutenant Governor, Himachal Pradesh, that the land is required to be taken by the Government at public expense for a public purpose*, it is hereby declared that the land described in the specification below is required for the said* purpose.

2. This declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894, to all whom it may concern and under the provisions of section 7 of the said Act, the Collector, Land Acquisition, Himachal Pradesh Public Works Department, is hereby directed to take order for the acquisition of the said land.

3. A plan of the land may be inspected in the office of the Collector, Land Acquisition, Himachal Pradesh Public Works Department, Simla-9.

Simla-1, the 30th May, 1968

No. PW (B)-56-44-Simla-Dn. No. II-6356-61 E

* Construction of Approach Road to Rest House, Dharni

SPECIFICATION

Tehsil: KASUMPTI

| Village | Khasra No. | Area Big. Bis. |
|---------|------------|-------------------|
| KANORI | 304/59/1 | 0 1 |
| | 309/60/1 | 0 4 |
| | 305/61/1 | 0 9 |
| Total | .. | 0 14 |

Simla-1, the 4th June, 1968
No. PW (R) 123-283/66-I/8613-16E
*Construction of Rohru-Sungri road

SPECIFICATION

District: MAHASU

Tehsil: ROHRU

| Village | Khasra No. | Area Big. Bis. |
|----------|------------------|-------------------|
| ROHRU | 636/1 | 0 2 |
| | 637/1 | 0 2 |
| | 1015/904/868/640 | 0 9 |
| | 642 | 0 15 |
| Total .. | | 1 8 |

No. PW (R) 123-283/66-I-8601-4E

SPECIFICATION

| Village | Khasra No. | Area Big. Bis. |
|----------|------------|-------------------|
| BARASLI | 557/2 | 1 18 |
| | 558/2 | 1 18 |
| | 560/2 | 0 3 |
| | 560/4 | 0 15 |
| Total .. | | 4 14 |

No. PW (R) 123-287/66-I-8605-8E

Construction of Rohru-Chargaon Dodra Kwar road

SPECIFICATION

| Village | Khasra No. | Area Big. Bis. |
|-------------|------------|-------------------|
| SUNDA BONDA | 1272/11/1 | 0 12 |

Whereas it appears to the Lieutenant Governor, Himachal Pradesh, that the land is required to be taken by the Government at public expense for a public purpose*, it is hereby declared that the land described in the specification below is required for the said* purpose.

2. This declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894, to all whom it may concern and under the provisions of section 7

of the said Act, the Collector, Land Acquisition, Himachal Pradesh Public Works Department is hereby directed to take order for the acquisition of the said land.

3. A plan of the land may be inspected in the office of the Collector, Land Acquisition, Himachal Pradesh Public Works Department, Simla-9.

Simla-1, the 30th May, 1968

No. PW (R) 123-104/67-BLP (PF) 6188-91E

*Construction of Bagher-Berthin-Talal road

SPECIFICATION

District: BILASPUR

Tehsil: GHUMARWIN

| Village | Khasra No. | Area Big. Bis. |
|----------|------------|-------------------|
| BARAD | 116/1 | 1 3 |
| | 133/1 | 0 1 |
| | 47/1 | 0 14 |
| | 49/1 | 0 14 |
| | 52/1 | 0 5 |
| | 37/1 | 0 4 |
| | 38/1 | 0 6 |
| | 50/1 | 1 3 |
| | 48 | 0 4 |
| | 114/1 | 2 7 |
| | 39/1 | 0 5 |
| | 142/1 | 1 6 |
| Total .. | | 8 12 |

Simla-1, the 4th June, 1968

No. PW (R) 122-9/67-BLP-(PF)-8617-20E

*Construction of Nagaon-Beri road

SPECIFICATION

Tehsil: SADAR

| Village | Khasra No. | Area Big. Bis. |
|----------|------------|-------------------|
| DIGAR | 13 | 0 11 |
| | 51 | 1 0 |
| | 54 | 0 4 |
| | 55 | 0 3 |
| | 12 | 0 8 |
| | 8 | 0 17 |
| | 9 | 0 2 |
| Total .. | | 3 5 |

भाग २—वैधानिक नियमों को छोड़ कर विभिन्न विभागों के अध्यक्षों और जिला मैजिस्ट्रेटों द्वारा अधिसूचनाएं
इत्यादि

शून्य

भाग ३—अधिनियम, विधेयक और विधेयकों पर प्रवर समिति के प्रतिवेदन, वैधानिक नियम तथा हिमाचल प्रदेश
के उप-राज्यपाल, हिमाचल बेंच आफ देहली हाई कोर्ट, फाइनेन्शल कमिशनर तथा कमिशनर आफ
इन्कम-टैक्स द्वारा अधिसूचित आदेश इत्यादि

शून्य

भाग ४—स्थानीय स्वायत्त शासन: म्युनिसिपल बोर्ड, डिस्ट्रिक्ट बोर्ड, नोटिफाइड और टाउन एरिया तथा पंचायत विभाग

शून्य

भाग ५—व्यक्तिगत अधिसूचनाएं और विज्ञापन

इशतहार

अदालत श्री आर० एल० सेठ, कम्पनसेशन ऑफिसर (तहसील नहान)

(कम्पनसेशन अधीन धारा नं० ११ ऐक्ट नं० १५ सन् १९५४)
नम्बर मिमल ४, मरजूमा २४-१-६८

श्री सुन्दर सिंह पुत्र भगवाना, साकिन बनकला, तहसील नहान
बनाम

श्री सन्तराम पिसर राम रबू, साकिन कच्चा तालाब, नहान, सूरतराम
पुत्र राम रबू मुल. तिम नहान फाऊंडरी नहान, चूहीर म पुत्र बतीराम,
साकिन बनकला, तहसील नहान, ईश्वरदास पुत्र कपूरिया राम हाल
सुपरिन्टेंडेंट डी०सी० आफिस चम्बा जिला चम्बा, ज्ञान चंद पुत्र गंगाराम,
साकिन बनकला, तहसील नहान श्रीक.स.नियान। मोहर।

हमारा कि मुकदमा मुदरजा उनबान बाला में तारीख पेशी मिति
१६-७-६८ मुकरर है उपरोक्त फोक स.नियान को तलबी के लिए अदालत
हजा से कई बार समनात जारी किये गये मगर वे दीदा व निस्ता तामीन
समनात से गुरेज करने हैं विहाजा वजरिया इशतहार इतला दी जाती है
कि (१) श्री ईश्वरदास पुत्र कपूरिया राम हाल सुपरिन्टेंडेंट डी०
सी० आफिस चम्बा, (२) सूरत राम पुत्र रामरबू हाल नहान फाऊंडरी,
नहान फौकेंत असातत या वकलतत बगजं जवाब देही हजरि
अदालत हजा होवे बसूरत दीगर कारंबाई एकतरफा अमन में लाई
जावेगी।

आज मिति ११-६-६८ को हमारे हस्ताक्षर व मोहर अदालत से
जारी हुआ।

आर० एल० सेठ,
कम्पनसेशन ऑफिसर।

भाग ६—भारतीय राजपत्र इत्यादि में से पुनः प्रकाशन

शून्य

भाग ७—भारतीय निर्वाचन आयोग (Election Commission of India) की वैधानिक अधिसूचनाएं तथा अन्य निर्वाचन सम्बन्धी अधिसूचनाएं

ELECTION DEPARTMENT NOTIFICATION

Simla-2, the 27th May, 1968

No. 33-11/68-Elec.--The Following Notification of the
Election Commission of India, dated the 20th April, 1968,
is hereby published for general information:—

ELECTION COMMISSION OF INDIA NOTIFICATION

Talkatora Road, New Delhi-1, the 20th April, 1968/
Chaitra 31, 1890 (Saka)

No. 82/6 of 1967/HP/67.—In pursuance of section 106
of the Representation of the People Act, 1951 the
Election Commission hereby publishes the Order, pronoun-
ced on the 16th January, 1968, by the High Court of
Delhi, Himachal Bench, Simla, in Election Petition No. 6
of 1967.

HIMACHAL BENCH AT SIMLA

C. O. P. No. 6 of 1967

Date of decision 16-1-1968

Hansraj through Mr. Chhabil Dass, Advocate.

Versus

Pt. Hari Ram through Mr. S. C. Goel and Mr. N. R.
Gupta, Advocates.

For approval and signature.

The Hon'ble Mr. Justice S. N. Andley.

1. Whether Reporters of local papers may be allowed
to see the Judgement?

2. To be referred to the Reporter or not? Yes.
3. Whether their Lordships wish to see the fair copy of
the Judgement?

CORAM:

S. N. ANDLEY, J.

By notification dated January 13, 1967 issued by the
competent authority under the Representation of People
Act, 1951 (Act 43 of 1951) hereinafter referred to as "the
Act" the Amb assembly constituency of Himachal Pradesh
was called upon to elect a member from that constituency
to the Himachal Pradesh Vidhan Sabha. Nomination
papers were to be filed on or before January 20, 1967.
Scrutiny was to take place on January 21, 1967 and the
last date for withdrawal was January 23, 1967. This
petition was filed on or about April 7, 1967 in the Court
of the then Judicial Commissioner, Himachal Pradesh at
Simla and, as a result of the re-organisation of Himachal
Pradesh and the extension of the jurisdiction of this Court
thereto, has come to be dealt with by this Court. The elec-
tion was contested by the petitioner; the ten respondents
to the petition and by one Waryam Singh who is not a
party to the petition. Hari Ram, respondent No. 1, here-
inafter referred to as "the respondent" contested the elec-
tion as a Congress candidate. The other respondents and
the said Waryam Singh and the petitioner contested the
election as independent candidates except Sher Singh
who contested the election as a Jan Sangh candidate.

Polling took place throughout the constituency on
February 18, 1967. Counting of votes took place at Una

in February 23, 1967 and the result was declared on this very date. The result as declared was as follows:—

| | Votes |
|---|-------|
| Hari Ram (respondent No. 1) secured .. | 4,927 |
| Data Singh (respondent No. 2) secured .. | 546 |
| Sukhdev Ram (respondent No. 3) secured .. | 566 |
| Bir Singh (respondent No. 4) secured .. | 311 |
| Birbal (respondent No. 5) secured .. | 1,378 |
| Padam Dev (respondent No. 6) secured .. | 805 |
| Yudhbir Singh (respondent No. 7) secured .. | 1,066 |
| Romesh Chand (respondent No. 8) secured .. | 637 |
| Sher Singh (respondent No. 9) secured .. | 905 |
| Tara Chand (respondent No. 10) secured .. | 81 |
| Hans Raj (the petitioner) secured .. | 4,403 |

The respondent was declared duly elected by a margin of 524 votes over the petitioner.

The petition alleged various grounds for declaring the election of the respondent as void and further prayed that the petitioner be declared duly elected.

Upon the pleadings of the parties, Hardy J.; who was then dealing with the matter, framed the following issues:—

- (1) Whether Shri Waryam Singh is a necessary party to the petition? If so its effect?
- (2) Whether 538 votes detailed in para 5 of the petition were wrongly rejected by the Returning Officer?
- (3) If issue No. 2 is decided in favour of the petitioner, whether the petitioner is entitled to get the benefit of these votes. If so, to what extent?
- (4) Whether pages 2, 3 and 4 of the list of voters supplied to the Returning Officer polling station No. 1 in village Gindpur Mahamed did not contain the names of the voters who were to cast their votes in the aforesaid polling station and similarly whether 100 voters of village Gagret were not included in that list supplied to the Presiding Officer and as such those voters were not supplied ballot papers. If so what is its effect on the election of respondent No. 1?
- (5) whether 90 voters in polling station No. 28 at Diara were not supplied with stamp and as such the ballot papers were left blank by such voters? If so what is its effect?
- (6) Whether respondent No. 1 engaged Jeep No. HIM 1177 for his election. If so what amount did he spend on the same?
- (7) Whether respondent No. 1 engaged Jeep No. HIM 1667 in connection with his election? If so, how much expenses did he incur on the same?
- (8) Whether respondent No. 1 engaged Truck No. PNH 2300 in connection with his election from 13-2-1967 to 18-2-1967? If so how much expenses did he incur?
- (9) Whether respondent No. 1 donated a sum Rs. 2,000 to the Himachal Pradesh Congress Committee? If so, whether that amount was an election expense?
- (10) Whether respondent No. 1 got "Mottos" printed from M/s Jagat Calico Printing Works, Hoshiarpur and from M/s Jagat Ram, Lakh Ram, Hoshiarpur? If so, how much amount did he spend on such printing?
- (11) Whether respondent No. 1 has incurred or authorised incurring of the expenditure exceed-

ing the prescribed limit of Rs. 2,000? If so what is its effect?

- (12) Whether respondent No. 1 procured Jeep HIM 1177 which belonged to Forest Department of Himachal Pradesh for his election by exercise of official influence as detailed in para 4(v) of the petition? If so, its effect?
- (13) Whether respondent No. 1 is guilty of corrupt practice of giving or offering of bribery to respondent No. 2 Data Singh with the object of inducing him to stand and not to withdraw from contest? If so, what is its effect?
- (14) Whether the petitioner is entitled to be declared elected to the Himachal Pradesh Assembly from Amb Constituency?
- (15) Relief.

It is not necessary to set out the pleadings of the parties in relation to Issues Nos. 1 to 5; 8 to 10 and 12 to 14, as at the stage of arguments counsel for the respondent gave up Issue No. 1 and counsel for the petitioner gave up Issues Nos. 2 to 5; 8 to 10 and 12 to 14. I have, therefore, to deal only with Issues Nos. 6, 7 and 11 in this judgment.

Issue No. 11 is connected both with Issue No. 6 and Issue No. 7 and relates to the corrupt practice contemplated by sub-section (6) of section 123 of the Act read with section 77 of the Act. Section 123 deals with corrupt practices for the purposes of the Act and the corrupt practice mentioned in sub-section (6) of this section is the incurring or authorising of expenditure in contravention of section 77 of the Act.

As seen from the frame of the Issue, Issue No. 6 related to the petitioner's allegation that the respondent has engaged Jeep No. HIM 1177 for his election. The allegations pertaining to this Issue are contained in paragraph 4(IV)(b) of the petition which is as follows:—

"That the respondent was able to secure Jeep No. HIM 1177 with the assistance of the General Manager, Himachal Pradesh Transport and other concerned officers on 26-1-1967. The respondent freely used this Jeep in connection with his election throughout the constituency till 10-2-1967 and incurred an expenditure of Rs. 300 on petrol account and also incurred an expenditure of Rs. 1,069 for its hire charges, etc. This amount of Rs. 1,069 was outstanding against the respondent and a bill for that amount has been issued to the respondent by the department concerned. The respondent has intentionally omitted to include this expenditure of Rs. 1,369 in his election expenses."

According to these allegations, the respondent should have included in his Return of Expenses as expenditure of Rs. 1,069 for the hire charges of Jeep No. HIM 1177. It may be stated that there was no argument as to the alleged expense of Rs. 300 on petrol for this Jeep and, in so far as Issue No. 6 is concerned, the argument was restricted to the amount of Rs. 1,069 alleged to be hire charges Jeep No. HIM 1177. I may also state that the total expenses shown by the respondent in his Return of Expenses amount to for Himachal Pradesh is Rs. 2,000.

The respondent replied to this allegation in paragraph 4(IV)(b) of the written statement in these words:—

"Clause (b) of the para is wrong and denied. Jeep No. HIM 1177 was procured by the Congress Party for the purposes of its general election campaign in the Kangra district and Una tehsil. The representatives of the Congress party had been using this Jeep

and respondent No. 1 had nothing to do with the same. The respondent No. 1 did not spend a single penny towards the alleged or any expenditure of the Jeeps."

No replication was filed in this case by the petitioner.

On the pleadings, the case made out by the petitioner was that it was the respondent himself who had taken Jeep No. HIM 1177 on hire from the Himachal Pradesh Transport Department, which had issued a bill for Rs. 1,069 regarding the hire charges to the respondent. The liability therefore, which was alleged to have been incurred was liability incurred by the respondent himself and not by any agent or any other person with the authority of the respondent. It was because of the statements made in paragraph 4(IV)(b) of the written statement that it has been argued that the Congress Party which had procured Jeep No. HIM 1177 was the agent of the petitioner within the meaning of the explanation to section 123 of the Act and had, in any event, been authorized by the respondent. The respondent, on the other hand, permitted to travel beyond his pleadings and even the issue as framed and should be strictly confined to the case made out in paragraph 4(IV)(b) of the petition.

The first document on which reliance has been placed by the petitioner is an order dated January 10, 1967 (Exhibit P.W. 1/1) by the Development Minister, Himachal Pradesh, directing the issue of a letter to various departments. The letter which is directed to be issued and which was ultimately issued is the letter dated January 11, 1967 (Exhibit P.W. 1/2) from the General Manager, Himachal Government Transport for the transfer of Jeeps belonging to various other departments to the Transport Department to cope with the demand pertaining to the election work. It states, *inter alia*:—

"It has been decided by the Government that Jeeps of other Government Departments may be temporarily transferred to the Transport Department to enable them to cope with the demand that may be received from various political parties/candidates and independent candidates in connection with the forthcoming General Election. It has, therefore, been decided that jeeps as detailed below shall immediately be made available to the Transport Department".

The next document is letter (Exhibit P.W. 1/3) dated January 22, 1967 from the President of the Himachal Pradesh Congress Committee, Simla, to the Regional Manager, Himachal Pradesh Government Transport, Bilaspur, and which says:—

"Subject : Hire of jeeps for General Elections by H.P.C.C.

Dear Sir,

Kindly hand over one jeep bearer of this letter under intimation to the undersigned having your done so.

The amount may be debited in the account of H.P.C.C. and bill submitted to this office."

This clearly shows that the hiring was to be by the Himachal Pradesh Congress Committee to whom the amount of hire was to be debited. On receipt of this letter, the Regional Manager, Himachal Pradesh Government Transport at Bilaspur, recorded the following note thereon on January 26, 1967:—

"Service Manager. To depute HIM-1177 to Shri Hari Ram. Advance of Rs. 200 to be given to the driver. One spare can of 20 litres be also issued. The jeep is supplied upto 10-2-1967. Speedo-

meter reading to be hand and later on all journey be properly entered. Vehicle to ply on prescribed roads only."

By this note, Jeep HIM 1177 was ordered to be deputed to the respondent. In pursuance of this note, the Himachal Pradesh Government Transport issued a check slip (Ex. P.W. 1/4) Ex. P.W. 1/7 dated January, 1967 in respect of the Jeep HIM 1177. The relevant portion of it is as follows:—

"Jeep placed at the disposal of Shri Hari Ram Ji at meter No. 29767 kms, at 3.15 P.M. on 26-1-1967 per..... Each journey would be recorded in the Log Book maintained whereafter a bill would be sent to H.P.C.C..... the jeep would report back here on 11-2-1967."

Although, according to the check slip, Jeep HIM 1177 is placed at the disposal of the respondent, it is stated that the bill is to be sent to the Himachal Pradesh Congress Committee. This check slip is signed by the respondent; Rup Lal (P.W. 9), the driver of the jeep and one Murari Lal.

The next document is the bill (Exhibit P.W. 1/5) dated March 18, 1967, which was sent by the Regional Manager, Himachal Pradesh Government Transport to the President, Himachal Pradesh Congress Committee, Simla. The subject matter of the bill is:—

"To amount of hire charges of jeeps/station wagons supplied to Sarvshri D. R. Shankhyan, Niku Ram, Khazan Singh, Hari Ram and Mehnga Singh (M.L.A.), (Congress) vide five requisitions dated 22-1-1967 from the H.P.C.C. as under."

After the subject matter, the bill recites the names of the several persons mentioned above and against each person the number of the vehicle; the period of its user and the amount of hire charges are mentioned. The specific entry in respect of Jeep HIM 1177 relating to the respondent is:—

| | Fare | Tax | Total |
|---|------------|--------|----------|
| "Shri Hari Ram Jeep HIM 1177 from 26-1-1967 to 4-2-1967 | Rs. 914.81 | 152.44 | 1,067.25 |

(Rupees one thousand and sixty-seven, paise twenty five only)."

Reliance is also placed upon the log book (Exhibit P.W. 1/6) pertaining to this Jeep. This log the journeys undertaken by this jeep between January 26, 1967 and February 4, 1967. The details of the journeys on the various dates are given below:—

| | |
|-----------|---|
| 26-1-1967 | Chalet via Una, Amb. |
| 27-1-1967 | Chalet, Una, Chintpurni and returned to Chalet at 9.00 P.M. |
| 28-1-1967 | Chalet, Una, Nehri, Amb, Diar and returned to Mubarikpur at 9.00 P.M. |
| 29-1-1967 | Mubarikpur, Gagret, Dhusara, Amb and returned to Chalet at 11.00 P.M. |
| 30-1-1967 | Chalet, Gagret, Amb, Basal and returned to Mubarikpur at 9.00 P.M. |
| 31-1-1967 | Mubarikpur, Bahenra, Amb, Hoshiarpur and returned to Mubarikpur at 11.00 P.M. |
| 1-2-1967 | Mubarikpur, Amb, Chururu, Chintpurni and returned to Mubarikpur at 10.00 P.M. |
| 2-2-1967 | Mubarikpur, Chalet, Hoshiarpur and returned to Mubarikpur at 9.00 P.M. |
| 3-2-1967 | Mubarikpur, Rupoh, Dhusara and returned |

to Mubarikpur at 9.00 P.M.

4-2-1967 Mubarikpur and returned to Bilaspur at 11.00 P.M.

The respondent has signed at eleven places in the last but one column of the log-book against each of the dates mentioned above. At this place it may be mentioned that Gagret; Una; Hoshiarpur; Basal and Bilaspur are not in Amb constituency and Gagret and Una were independent constituencies. It may also be mentioned that for vehicles plying in Amb constituency, the nearest petrol pumps are in Gagret and Una. Basal is also in Una constituency but it is in the evidence of Jagir Singh (P.W. 6) that Basal is on the way to some of the villages in Amb constituency. Hoshiarpur is not in Himachal Pradesh at all but Bilaspur is. It was at Bilaspur that this jeep was taken delivery of and it was to Bilaspur that it is returned on February 4, 1967.

The contention of the petitioner is that this jeep was used exclusively by the respondent in connection with his election between January 26, 1967 and February 4, 1967 and for this contention reliance is placed upon the aforesaid documentary evidence and upon oral evidence.

In so far as the oral evidence is concerned, the first witness is Rup Lal (P.W. 9), the driver of this jeep. In the very beginning of his examination-in-chief, he stated that he drove this jeep "for the Congress and the various candidates sponsored by the Congress". On this statement being made, the counsel for the petitioner put questions by way of cross-examination and I allowed to questions even though I had not formally declared this witness to be hostile. This witness stated that the eleven signatures of the respondent in the log book (Exhibit P.W. 1/6) were made on one day, that is, February 4, 1967. He does not admit having received any instructions from the respondent and says that instructions, except once or twice, were always given to him by Waryam Singh (R.W.5.) Agya Ram (R.W.3), Jagdish Ram and Mehnga Singh. He has admitted that respondent used this jeep once or twice along with other Congress workers. This statement relies the respondent's plea in the written statement that he had nothing to do with this jeep. Asked about his instructions he has stated that "my instructions were that the jeep was to be used for the Congress candidate or any of its workers" and in answer to a question by the Court he stated:—

"According to my understanding person wearing a white cap was a Congress worker. Congress worker had also badges. I would take the jeep any distance say 50 or 100 miles on the instructions of any person wearing a white cap and badge."

My own view is that this witness has made not only an irresponsible but a false statement and obviously he is trying to support the respondent to counter the petitioner's case of the exclusive user of this jeep by the respondent.

The next witness is Jagir Singh (P.W. 6). This witness was Counting Agent of the petitioner and he has stated that during the elections he saw the respondent using jeeps HIM 1177 and HIM 1667.

The next witness is Harnam Dass (P.W. 13) who has also deposed to the user of these two jeeps by the respondent during the elections. The statement of Ram Tirath (P.W. 18) is also to the same effect as the statement of Harnam Dass (P.W. 13).

The last witness produced by the petitioner in this connection is A. C. Vaidya (P.W. 20). This witness was the Regional Manager, Himachal Government Transport at Bilaspur. He has stated that Jeep No. HIM 1177 was supplied to the respondent on the basis of his note dated

January 26, 1967 on the original of Exhibit P.W. 1/3 which has been quoted above. He states that when he came to the booking office at Bilaspur on January 26, 1967 he found "the respondent, one Mr. Jagdish, Mr. Mehnga Singh and my Superintendent Mr. M. L. Vaidya. Letter Ex-P.W. 1/3 was delivered to me by Mr. M. L. Vaidya". His explanation as to why the name of the respondent was put on the check slip (Exhibit P.W. 1/4)-Exhibit P.W. 1/7) is that he put the name of the respondent in his aforesaid note on the original of Exhibit P.W. 1/3 taking the respondent to be a Congress candidate. The evidence of this witness also is not very satisfactory because the explanation that he has given for putting the name of the respondent in his note on the original of Exhibit P.W. 1/3 does not appear to be the true explanation.

In order to show that jeep HIM 1177 was not used exclusively by the respondent but was used by Congress workers for general election propaganda on behalf of the Congress in various constituencies, the respondent relies upon the statements made by some of the witnesses produced by the petitioner and upon the statement of Agya Ram (R.W. 3) and Waryam Singh (R.W. 5) produced by the respondent apart from the respondent's own denial of having used the jeep exclusively.

Ved Parkash (P.W. 10), who is a petrol dealer at Hoshiarpur has stated that petrol was supplied to Jeep HIM 1177 from his petrol pump on February 1, 1967. It is sought to be argued from this statement that there was no reason for the respondent to go all the way to Hoshiarpur to purchase petrol for Jeep HIM 1177 and the fact that this jeep had gone to Hoshiarpur indicates that it was being used during the election of the respondent but also for other election for the people.

Anant Ram (P.W. 11), who is employed at the Una petrol pump of one M. S. Bedi, has admitted in cross-examination that the nearest petrol pump from Amb is at Gagret which is at a distance of about 6 miles and that the petrol pump at which this witness is working is about 18/19 miles from Amb. In examination-in-chief, this witness has stated that on 26th, 27th, and 28th January, 1967, this witness supplied petrol to Jeep HIM 1177.

Now, if this jeep was being used exclusively in connection with the election of the respondent there would be no point in taking it to a distance of 18/19 miles from Amb to get petrol on three successive days when petrol was available at Gagret which was at a distance of 6 miles only from Amb. Further, the fact that petrol was taken from this petrol pump at Una on the three dates mentioned above indicates that this jeep was used on three successive days in Una constituency and that could only be in connection with the election of the Congress candidate from Una constituency.

Agya Ram (R.W.3) has stated in examination-in-chief that he did election propaganda for the Congress party; that he toured through Amb, Gagret and Una constituencies particularly along with Waryam Singh (R.W. 5), Ram Lok, Sukh Dev Singh and Jagdish Ram in two jeeps bearing Nos. HIM 1177 and HIM 1667; that they used to canvass for votes for Congress candidates in these constituencies to the Himachal Pradesh Vidhan Sabha and Parliament; that none of the two jeeps was ever exclusively went with these persons on one or two occasions for meetings held by them. He has further stated that he; Mehnga Singh; Jagdish Ram and the respondent were all residents of Chalet.

Waryam Singh (R.W. 5) poses to be a very responsible Congress worker. He has stated that he had been made

responsible by the Himachal Pradesh Congress Committee for the elections in the entire Una tehsil comprising of the constituencies of Gagret, Amb, Una, Santokgarh and Kangra in connection with elections to the Himachal Pradesh Vidhan Sabha and Parliament; that three jeeps including HIM 1177 and HIM 1667 had been given to them; that these jeeps were not used exclusively by the respondent, nor were they taken with the consent of the respondent and that respondent had gone with them on one or two occasions. This witness is supported to a certain extent by Ram Pal (P.W. 4) who supplied petrol to Jeep HIM 1667. He has stated in cross-examination that "Thakur Waryam Singh who used to come in the jeep (HIM 1667) as stated by me above, was doing electioneering for all Congress candidates. This Waryam Singh used to do electioneering for Mehnga Singh, now Deputy Minister, who was Congress candidate".

The argument of the petitioner is that the documentary and oral evidence conclusively shows that Jeep HIM 1177 was used exclusively in connection with the election of respondent. The letter (Ex. P.W. 1/3) dated January 22, 1967, from the President of the Himachal Pradesh Congress Committee does not mention the name of the respondent, but merely contains a direction to hand over one jeep to the bearer. But the noting dated January 26, 1967 on this letter by the Regional Manager, Himachal Government Transport at Bilaspur, does mention the name of the respondent to whom, according to the note, Jeep HIM 1177 has been deputed. The delivery of the jeep was taken at Bilaspur which admittedly is not in the constituency of the respondent and it is the respondent who has signed the check slip (Exhibit P.W. 1/4—Exhibit P.W. 1/7) dated January 26, 1967. The respondent has tried to explain his presence in Bilaspur on this date by stating:—

"On January 26, 1967 I was in Bilaspur to get badges for Congress workers from Daulat Ram Shankhyan I had gone to Bilaspur in the company of Mehnga Singh only for getting the badges. I came back to Mubarikpur from Bilaspur either on January 28 or 29, 1967 and Mehnga Singh went to his constituency. Hitendra Singh, General Secretary of the Himachal Pradesh Congress Committee told me that my bundles of the badges were in Bilaspur and that I should get them from there."

This statement of the respondent does not find corroboration from any other witness produced by him although he should have been conscious from the very beginning that he had to explain, *inter alia*, his signatures on the check slip (Exhibit P.W. 1/4—Exhibit P.W. 1/7) at the time of taking delivery of the jeep in Bilaspur on January 26, 1967. He could easily have produced Jagdish Ram to whom according to him, the jeep was delivered for Mehnga Singh who was admittedly with him or Hitendra Singh who is alleged to have asked him to get the badges from Bilaspur. But none of these persons has been produced. His explanation of his signatures on the said check slip that—"I was asked by the Superintendent to sign the check slip Exhibit P.W. 1/7 as he wanted the signatures of the Congress candidate of that area" appears to me patently untrue. If that was the case, he could easily have produced this Superintendent.

From the aforesaid facts and documents, there is no doubt that the respondent was the bearer of the letter (Exhibit P.W. 1/3), dated January 22, 1967 from the President of the Himachal Pradesh Congress Committee, Simla, to the Regional Manager, Himachal Pradesh

Government Transport at Bilaspur; that the Jeep HIM 1177 was deputed to him as per the note on this letter made by the latter at Bilaspur on January 26, 1967 when he took delivery of this jeep on that date vide check slip (Exhibit P.W. 1/4—Exhibit P.W. 1/7).

But these facts do not necessarily lead to the conclusion that this jeep was used exclusively in connection with the election of the respondent and of no body also, Nor can such a conclusion be arrived at merely from what is stated in the bill (Exhibit P.W. 1/5) dated March 18, 1967 which states, *inter alia*, that a jeep was supplied to the respondent amongst other persons named therein or from the fact that this bill contains the name of the respondent and the amount of hire charges against his name in respect of this jeep. After all, the respondent was a Congress candidate and there is nothing surprising that his name was mentioned in these various documents as the person to whom the jeep was deputed or delivered. Even though the jeep had been taken delivery of by the respondent from the Himachal Pradesh Government Transport, it could have been used for the general propaganda of the Congress for the other Congress candidates both for the Himachal Pradesh Vidhan Sabha and Parliament from the various constituencies in Una tehsil.

Very great reliance has been placed by the petitioner on the entries in the log book (Ex. P.W. 1/6) and emphasis is laid on two facts (1) that it was the respondent who appended his signatures in the last but one column of the log book against the journeys undertaken by this jeep and (2) that this jeep returned every night either to Chalet which is the home village of the respondent or to Mubarikpur where the respondent had his election office.

The explanation of the respondent with regard to the eleven signatures on the said log book is:—

"I spent the night on 3rd February in Mubarikpur and the driver of the Jeep HIM 1177 came to me in the morning of 4th February when I signed the log book Ex. P.W. 1/6."

In this statement he has been supported by Rup Lal (P.W.9) who states:—

"All the signatures "Hari Ram" page 2 of Log Book in the last but one column were made by respondent No. 1 on 4th February, 1967".

The respondent has replied, the suggestion that these signatures were not made at the same time and on the same date as deposed to by him and Rup Lal (P.W. 9). A visual inspection of the signatures shows that these signatures have been made in different ink. I have no doubt in my mind that the explanation given by the respondent and Rup Lal (P.W. 9) with regard to these signatures that they were all made on February 4, 1967 is not the true explanation and it appears to me that these signatures must have been made on different dates. Even so, the fact that signatures were made on different dates merely proves that this jeep was used in connection with the election of the respondent even primarily but that is a far thing from saying that it was used exclusively in connection with the election of the respondent.

From the evidence which has been adverted to by me above, it is clear that Mehnga Singh, a Congress candidate from another constituency in Una tehsil and Jagdish Ram, a Congress worker, also belong to Chalet. There is, therefore, nothing surprising in the jeep going back to village Chalet and this fact alone is not conclusive evidence of the fact that it was the respondent and the respondent

alone who used to take this jeep back to Chalet. Similarly the fact that on some nights the Jeep went to Mubarikpur where the respondent had his election office, is not conclusive to prove that it was only at the instance of the respondent. It would not be unnatural for the Congress workers whose job it was to carry on Congress propaganda during the Elections in various constituencies to visit and stay the night in Mubarikpur.

From the oral and documentary evidence produced in this case by both the parties, I cannot come to a definite conclusion that Jeep HIM 1177 was taken on hire by the Himachal Pradesh Congress Committee either at the instance of the respondent or for being used exclusively in connection with the election of the respondent. All that the evidence, both oral and documentary points out is that this jeep was used also by the respondent in connection with his election.

The crucial fact that has to be determined while considering whether the corrupt practice contemplated by sub-section (6) of section 123 of the Act has been committed by the returned candidate is whether the returned candidate incurred or authorized the expense which has not been included by him in his Return of Expenses. But in this case, even the question of authority does not enter the picture because the only case with which the petitioner came to Court was that it was the respondent himself who had engaged and incurred the expenses of this jeep. Even after the respondent had filed his written statement and pleaded that this jeep had been procured by the Congress party for the purpose of its general election campaign in the Kangra district and Una tehsil, the petitioner did not file any replication to plead that, in any event, an procurement of the jeep by the Congress party was the act of authorization within the meaning of section 77 of the Act. In fact, as late as on August 2, 1967 the petitioner served a notice under Order 12, Rule 8, Civil procedure Code upon the counsel for the respondent calling upon the latter to produce original bill issued by the Himachal Pradesh Transport Department in respect of Jeep HIM 1177 taken by Pandit Hari Ram in connection with election business this year". Therefore, there is no doubt that the only case that the petitioner was pressing was that the hire charges of this jeep had been incurred by the respondent himself and was not relying either on any authority or the contention, which was urged at the time of arguments, that the Congress party were the agents of the respondent in so far as the procurement of this jeep was concerned.

There is overwhelming evidence to show that the hire charges pertaining to this jeep were not paid by the respondent and were paid by the Himachal Pradesh Congress Committee and this fact was not seriously disputed at the time of arguments. But since arguments have been heard from both sides on the basis that the Congress party were the agents of the respondent or were in any event authorized by the respondent to procure this jeep, I will deal with this aspect of the matter also.

In my view, the explanation to section 123 of the Act has no application to the facts of this case. Clause (1) of the Explanation is in these terms:—

"In this section the expression 'agent' includes an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate."

It is to be noticed that this inclusive definition of an agent is for the purposes of section 123 only. Now, sub-section (6) of section 123 does not contain the word

"agent". Therefore, the above inclusive definition of "agent" cannot apply to the corrupt practice contemplated by sub-section (6) of section 123. All that sub-section (6) talks of is "the incurring or authorising of expenditure in contravention of section 77". Section 77 also does not talk of an agent. It talks only of the candidate or his election agent. Admittedly, the respondent did not have any election agent. The result, therefore, is that so far as the present case is concerned, the respondent would be guilty of the corrupt practice contemplated by sub-section (6) of section 123 only if the expenditure in connection with his election in so far as Jeep HIM 1177 is concerned, was incurred or authorised by the respondent himself. Authority cannot be presumed from the mere fact of user and no evidence has been produced which can conclusively show that the respondent had authorised the Himachal Pradesh Congress Committee to procure this jeep. The only witness on this aspect of the matter is Amar Nath Bazawaria (R.W. 2), who is the permanent Secretary, Himachal Pradesh Congress Committee. He has stated:—

"The Pradesh Congress Committee had taken on hire several vehicles from the Government during the elections. Payment of the hire amount in respect of these vehicles was made by the Pradesh Congress Committee. The Pradesh Congress Committee did not charge any amount from any of the Congress nominees towards the hire of vehicles or for petrol or mobile oil consumed."

It is clear from the statement that the hire charges in respect of Jeep HIM 1177 were paid by the Himachal Pradesh Congress Committee.

The petitioner has relied upon my judgement in C.O.P. No. 7 of 1967 dated October, 20, 1967 in re: *Sadhu Ram etc., versus Hira Singh Pal* and particularly upon the observation:—

"Reading sub-section (6) of section 123 only with reference to section 77, the conclusion can only be that this corrupt practice can be committed only by the candidate or his election agent and, so read, cannot include 'any other person with the consent of the candidate or his election agent' as mentioned in sub-clause (b) of sub-section (1) of section 100 unless such consent is equivalent to an authorisation by the candidate or his election agent."

In my view in that case will be evident from the following further observation that:—

"The corrupt practice is for incurring or authorising of expenditure in contravention of section 77 of the Act. The word 'incurring' necessarily postulates a pecuniary liability on the candidate himself even though the expense may have been authorised by the candidate or his election agent."

In my view, the correct position in law is that even if an expense has been undertaken by a person other than the candidate under an authorisation of the candidate, the ultimate liability in respect of such expenses must be of the candidate himself.

For this conclusion I had relied upon the phraseology of section 123 of the Act and upon the decisions reported in A.I.R. 1954 S.C. 749 (*Rananjaya Singh, Baijnath Singh and others*); A.I.R. 1959 Rajasthan 324 (*Seopatsing v. Rarsihchandra*); A.I.R. 1959 Assam 139 (*Biresh Misra versus Ram Nath Sharma and others*) and A.I.R. 1960 Madras 85 (*M.A. Muthiah Chettiar v. Sa.*

Ganeshan). I had further stated that "section 123 of the Act mentions certain acts which are to be deemed to be corrupt practices for the purpose of the Act. In addition to an election agent or any other person acting with the consent of the returned candidate, this section uses the word 'agent' which has been defined by the Explanation to this section as including "an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate" but this inclusive definition is for the purposes of this section alone. In spite of the words "or his election agent or by any other person with the consent of a returned candidate or his election agent" used in section 100(1)(b) of the Act, different expressions have been used in section 123 with reference to different corrupt practices. Sub-section (1)(a) which relates to bribery uses the words "or his agent or by any other person with the consent of a candidate or his election agent". Sub-section (1)(B)(a) which relates to gratification refers only to "candidate". Sub-section (2) which refers to undue influence or interference mentions "the candidate or his agent, or of any other person with the consent of the candidate or his election agent". Sub-section (3) which relates to appeals on the ground of religion etcetra mentions "a candidate or his agent". Sub-section (A) which relates to promotion of feelings of enmity or hatred mentions "a candidate or his agent or any other person with the consent of a candidate or his election on agent." Sub-section (4) relating to publication of false statements mentions "a candidate or his agent or by any other person with the consent of a candidate or his election agent." Sub-section (5) which relates to the hiring or procuring of any vehicle etcetra mentions "a candidate or his agent or by any other person with the consent of a candidate or his election agent". Sub-section (7) which relates to obtaining or procuring of assistance from specified classes of Government servants mentions "a candidate or his agent or by any other person with the consent of a candidate or his election agent". But sub-section (6) which refers to un-authorized expenditure merely states the corrupt practice to be "the incurring or authorizing of expenditure in contravention of section 77".

In view of my finding that the hire charges were actually paid by the Himachal Pradesh Congress Committee and not by the respondent, the respondent cannot be said to have incurred or authorized this expense within the meaning of section 77 of the Act and, therefore, he did not commit the corrupt practice contemplated by sub-section (6) of section 123 of the Act of not including the amount of hire of Jeep HIM 1177 in his Return of Expenses.

Issue No. 6 is, therefore, decided against the petitioner.

Issue No. 7 again relates to the engagement by the respondent himself in connection with his election of Jeep No. HIM 1667. The allegations with reference to this Issue are contained in paragraph 4(IV) (c) of the petition which is as follows:

"That the respondent No. 1 also used his Jeep No. HIM 1667 in connection with his election in the constituency from 14-1-1967 to 21-2-1967 and used petrol in this jeep to the tune of Rs. 370. He has also omitted to include this expenditure in his return of election expenses."

The respondent has replied to these allegations in these words:—

"I reply to para 4(iv)(c) it is submitted that similarly

Jeep No. HIM 1667 was also procured by the Congress party for the election campaign of the party, throughout Kangra district. Respondent No. 1 had nothing to do with this jeep nor he spent any thing on it. The jeep was not used for the purposes of the election campaign of respondent No. 1 as such."

The witness in respect of this Issue is Hans Raj (P.W. No. 5) who is the owner of Jeep HIM 1667. He has stated:

"I had sent this vehicle at the behest of Mr. Sita Ram, who is the General Secretary of the Himachal Pradesh Congress Committee..... Sita Ram paid Rs. 1,000 for the use of this vehicle."

All the evidence that has been given by the petitioner with regard to this jeep is the evidence of Jagir Singh (P.W. 6) and Harnam Dass (P.W. 13) and all that they have stated is that they saw the respondent sitting in this jeep several times during the election. The evidence given, at best, amounts to no more than user of this jeep by the respondent during the election. The petitioner cannot succeed by merely showing user of the jeep by the respondent so as to prove the corrupt practice contemplated by sub-section (6) of section 123 read with section 77 of the Act.

The issue is in general terms and does include the engagement of this jeep but the case pleaded was only with respect to its user and the incurring of an expense of Rs. 370 for petrol purchased for this jeep from January 14, 1967 to February 21, 1967. The evidence with regard to the supply of petrol to this jeep is of two witnesses, P.W. 4 and P.W. 11. Ram Pal (P.W. 4) says that petrol was supplied to this jeep from his father's petrol pump at Gagret. But, even in his examination-in-chief, he states that the respondent never went to his petrol pump in this jeep. In cross-examination, this witness further admits that Waryam Singh (R.W. 5) used to come in the jeep and he was doing electioneering for all Congress candidates. Anant Ram (P.W. 11), who is employed in the petrol pump of M. S. Bedi at Una merely states that petrol was taken for this jeep from his petrol pump. He does not name the respondent as the purchaser of petrol.

On this evidence, it is impossible to conclude that the respondent purchased petrol worth Rs. 370 or engaged Jeep No. HIM 1667 in connection with his elections.

Issue No. 7 is also decided against the petitioner.

In view of the findings on Issues Nos. 6 and 7, the petitioner must fail on Issue No. 11 also.

In the result, the petition is dismissed. In view of the fact that I have found that the respondent has not come out with the truth in connection with Jeep HIM 1177 either in his written statement or in his evidence, I make no order for costs in his favour.

The Registrar shall comply with the provisions of the section 103 of the Act, January, 16, 1968.

By order,
S. N. ANDELY.

By order,
A. N. SEN,
Secretary to the Election Commission.

By order,
D. B. LAL,
Chief Electoral Officer.

प्रबन्धक, हिमाचल प्रदेश शासन मुद्रणालय, शिमला-३ द्वारा मुद्रित तथा प्रकाशित ।